



PLANNING COMMISSION AGENDA

Wednesday, August 20, 2008

6:30 p.m. Regular Meeting

Council Chambers

First Floor, City Hall Wing

200 East Santa Clara Street
San José, California

Jim Zito, Chair

Matt Kamkar, Vice-Chair

Xavier Campos

Lisa Jensen

Christopher Platten

Thang Do

Ash Kalra

Joseph Horwedel, Director

Planning, Building and Code Enforcement

NOTE

To request an accommodation for City-sponsored meetings or events or an alternative format for printed materials, please call Carmen Stanley at 408-535-7856 or 408-294-9337 (TTY) as soon as possible, but at least three business days before any meeting or event. If you requested such an accommodation, please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Jim Zito** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of ***Wednesday, August 20, 2008***. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is located at the rear of the Chambers.

If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4.a., not PD06-023.**

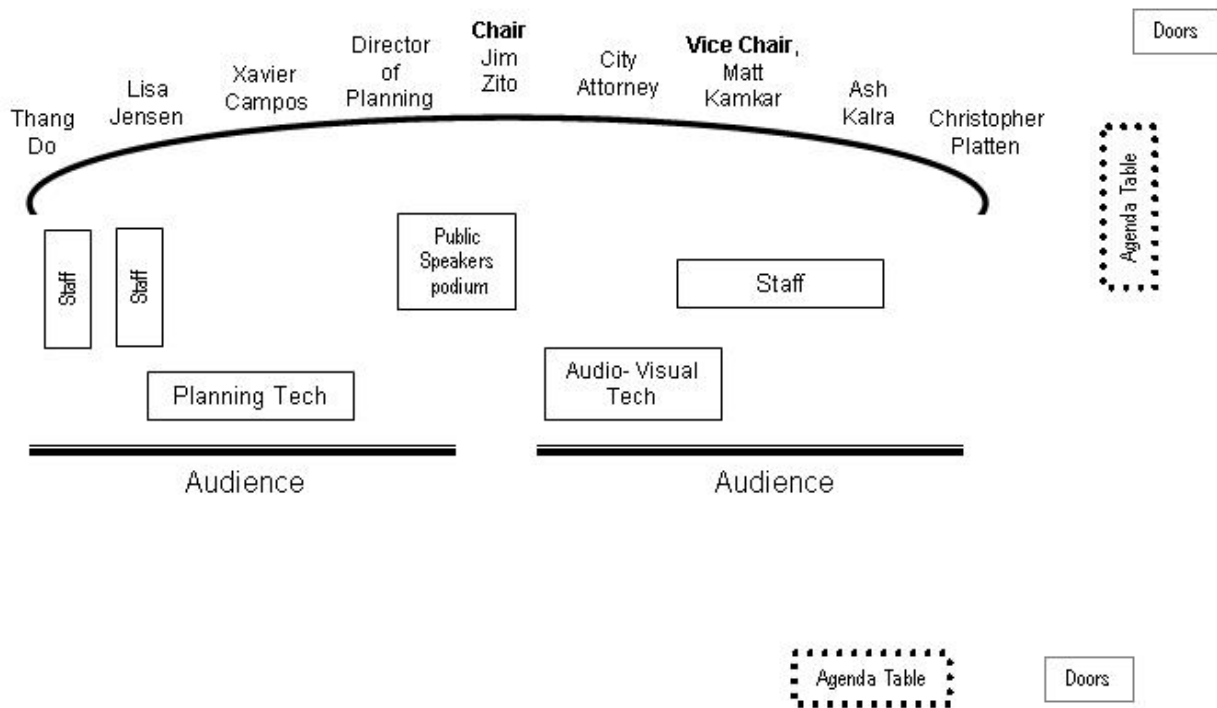
The procedure for this hearing is as follows:

- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. Response to Commissioner questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is only advisory to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezoning and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

The Planning Commission is a seven-member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San José Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at http://www.sanjoseca.gov/planning/hearings/planning_com.asp

All public records relating to an open session item on this agenda, which are not exempt from disclosure, pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, 3rd Floor Tower, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

Audio for the Planning Commission hearings are recorded and broadcasted live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website: http://sanjose.granicus.com/ViewPublisher.php?view_id=17

If you have any questions, please direct them to the Planning staff at (408) 535-7800. If you have any agenda questions, please contact Carmen Stanley at (408) 535-7856 or email carmen.stanley@sanjoseca.gov Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

ROLL CALL

1. DEFERRALS

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date. To be heard by the Planning Commission no later than 11:00 p.m.

2. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- 2.1** **CP08-042**. Conditional Use Permit to allow temporary seasonal sales of Halloween Pumpkins and Christmas Trees from September 1st to January 1st on an annual basis at an existing 5.0 gross acre site in the IP Industrial Park Zoning District, located on the northwest corner of Tully Road and Capitol Expressway (Santa Clara County, Owner). Council District 8. SNI: None. CEQA: Exempt. *PROJECT MANAGER, E.SCHREINER*

Staff Recommendation: Approve a Conditional Use Permit to allow temporary seasonal sales of Halloween Pumpkins and Christmas Trees from September 1st to January 1st on an annual basis at an existing 5.0 gross acre site in the IP Industrial Park Zoning District, as recommended by staff.

2.2 [CP08-043](#). Conditional Use Permit Renewal to allow continued operation of a drinking and entertainment establishment in the DC Downtown Primary Commercial Zoning District, located at/on the north side of W. Santa Clara Street approximately 100 feet east of N. Market Street (81 W SANTA CLARA ST, Vault Nightclub)(Hoefler Walt S And Mary R Trustee, Owner). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, E.SAMONSKY*

Staff Recommendation: Approve a Conditional Use Permit Renewal to allow continued operation of a drinking and entertainment establishment in the DC Downtown Primary Commercial Zoning District, as recommended by staff.

2.3 [PDC08-008](#). Planned Development Prezoning from County of Santa Clara to R-2(PD) Planned Development Zoning District to allow three single family detached residences on 0.24 acres, located on the north side of Olsen Drive, approximately 100 feet west of Cypress Avenue (3515 OLSEN DR)(Tom Ronning, Owner). Council District 1. SNI: None. CEQA: Exempt. *PROJECT MANAGER, R.ROBERTS*

Staff Recommendation: Recommend approval of a Planned Development Prezoning from County of Santa Clara to R-2(PD) Planned Development Zoning District to allow three single family detached residences on 0.24 acres, as recommended by staff.

2.4 [PDC08-032](#). Planned Development Rezoning from A(PD) Planned Development to A(PD) Planned Development to amend development standards of previous Zoning (File No. PDC06-034) to allow a reduction in required parking for senior housing, to modify setbacks to allow underground parking to extend to a minimum 5' setback at the southern and eastern property lines, and to allow a minimum retail square footage of 17,500 square feet on a 29.5 gross acre site, located on the south east side of Montecito Vista Dr 660 ft SW of Monterey Rd (2745 MONTEREY RD) (Roem Development Corp, Owner/Developer). Council District 7. SNI: None. CEQA: Reuse of EIR. *PROJECT MANAGER, M.DAVIS*

Staff Recommendation: Consider the re-use of an Environmental Impact Report in accordance with CEQA. Recommend approval of a Rezoning from A(PD) Planned Development to A(PD) Planned Development to amend development standards of previous Zoning (File No. PDC06-034) to allow a reduction in required parking for senior housing, to modify setbacks to allow underground parking to extend to a minimum 5' setback at the southern and eastern property lines, and to allow a minimum retail square footage of 17,500 square feet on a 29.5 gross acre site, as recommended by staff.

The following items are considered individually.

3. PUBLIC HEARING

NOTICE TO THE PUBLIC

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- 3.1** [PDC07-009](#). Planned Development Rezoning from LI-Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow 2,800 square feet of commercial uses and up to eight residential units in a mixed-use configuration on a 0.24 gross acre site, located on the southeast corner of The Alameda and Bush Street (746 The Alameda)(Klifo Family Investment LLC, Owner). Council District 6. SNI: None. CEQA: Mitigated Negative Declaration. *PROJECT MANAGER, B.ROTH*

Staff Recommendation: Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend approval of a Planned Development Rezoning from LI-Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow 2,800 square feet of commercial uses and up to eight residential units in a mixed-use configuration on a 0.24 gross acre site, as recommended by staff.

- 3.2** [PDC07-096](#). Planned Development Prezoning/Rezoning from County and CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 218 attached single-family residences and 22,600 square feet for commercial uses on a 3.59 gross acres site, located on the south side of West San Carlos Street between Meridian Avenue and Page Street (Dubrovnik Properties, LLC & Nicholas Gera, Owner). Council District 6. SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration. *PROJECT MANAGER, E.SCHREINER*

Staff Recommendation: Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend approval of a Prezoning/Rezoning from County and CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 218 attached single-family residences and 22,600 square feet for commercial uses on a 3.59 gross acres site, as recommended by staff.

- 3.3** [PDC06-126](#). Planned Development Rezoning from LI Industrial and R-2 Two Family Residence Zoning Districts to A(PD) Residential Zoning District to allow the construction of one new single-family detached residence on a 0.22 gross acre site, located on the west side O'Brien Court approximately 120 feet southerly of Campell Avenue (1001-1015 O'Brein Ct) (Hadnett Patrick, Owner). Council District 6. SNI: None. CEQA: Exempt. *PROJECT MANAGER, M.DAVIS*

Staff Recommendation: Recommend Approval of a Planned Development Rezoning from LI Industrial and R-2 Two Family Residence Zoning Districts to A(PD) Residential Zoning District to allow the construction of one new single-family detached residence on a 0.22 gross acre site, as recommended by staff.

- 3.4** [GP08-08-03](#). Denial or continued processing of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Non-Urban Hillside to General Commercial to allow 290-340 units of Senior Assisted Living Units on a 4 acre portion of a 21 acre property located in the Silver Creek Planned Residential Community, located on the east side of Dove Road, approximately 400 feet north of Hassler Parkway (4200 DOVE HILL ROAD)(Kuehne and Eleanore Stanislaus Trustee, Owner). Council District 8. SNI: None. CEQA: Incomplete. *PROJECT MANAGER, R.ROBERTS*

Staff Recommendation: Recommend Denial or continued processing of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Non-Urban Hillside to General Commercial to allow 290-340 units of Senior Assisted Living Units on a 4 acre portion of a 21 acre property, as recommended by staff.

4. PETITIONS AND COMMUNICATIONS

Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

- Responding to statements made or questions posed by members of the public; or
- Requesting staff to report back on a matter at a subsequent meeting; or
- Directing staff to place the item on a future agenda.

5. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES

6. GOOD AND WELFARE

- 6.1 Report from City Council
- 6.2 Commissioners' Report from Committees:
- 6.3 Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).
 - (a) Envision San José 2040 General Plan Update Process (Kamkar).
 - (b) Review of synopsis for 08/06/08.
- 6.4 Consider Study Session dates and/or topics.
- 6.5 Set November 5th and November 19th, as General Plan Hearing Dates.
- 6.6 Wednesday, August 27, 2008 at 6:30 p.m. – Housing Element Update Community Meeting in Council Wing Room W118 & W119.

ADJOURNMENT

2008 PLANNING COMMISSION MEETING SCHEDULE

| Date | Time | Type of Meeting | Location |
|-------------------|-----------|--|---------------------|
| January 16 | 6:30 p.m. | Regular Meeting | Council Chambers |
| January 30 | 6:30 p.m. | Regular Meeting | W118 & W119 |
| February 13 | 5:00 p.m. | Study Session | Room T-332 |
| | | <i>Review & Comment: Planning Department Website</i> | |
| February 13 | 6:30 p.m. | Regular Meeting | Council Chambers |
| February 27 | 5:00 p.m. | Study Session | Room T-332 |
| | | <i>CEQA: Reviewing Environmental Impact Reports</i> | |
| February 27 | 6:30 p.m. | Regular Meeting | Council Chambers |
| March 12 | 5:00 p.m. | Study Session | Room T-332 |
| | | <i>North San José</i> | |
| March 12 | 6:30 p.m. | Regular Meeting | Council Chambers |
| March 26 | 5:00 p.m. | Study Session | Room T-332 |
| | | <i>Green Vision/Develop City Policy</i> | |
| March 26 | 6:30 p.m. | Regular Meeting/General Plan | Council Chambers |
| April 9 | 5:00 p.m. | Study Session | Room T-332 |
| | | <i>Riparian Corridor Policy</i> | |
| April 9 | 6:30 p.m. | Regular Meeting/General Plan | Council Chambers |
| April 21 (Monday) | 5:00 p.m. | Study Session | Room T-332 |
| | | <i>Inclusionary Housing & Housing Element</i> | |
| April 21 (Monday) | 6:30 p.m. | Regular Meeting/General Plan | Council Chambers |
| May 7 | 5:00 p.m. | Study Session | Room T-1654 |
| | | <i>Capital Improvement Program</i> | |
| May 7 | 6:30 p.m. | Regular Meeting | Council Chambers |
| May 14 | 6:30 p.m. | Regular Meeting | Council Chambers |
| May 28 | 6:30 p.m. | Regular Meeting | Council Chambers |
| June 11 | 5:00 p.m. | Study Session | Room T-332 |
| | | <i>Planning Commission By-Laws</i> | |
| June 11 | 6:30 p.m. | Regular Meeting | Council Chambers |
| June 25 | 5:00 p.m. | CANCELLED Study Session | CANCELLED |
| | | <i>Riparian Corridor Policy</i> | |
| June 25 | 6:30 p.m. | Regular Meeting | Council Chambers |
| July 16 | 6:30 p.m. | Regular Meeting | W-118, W-119, W-120 |
| August 6 | 5:00 p.m. | Study Session | Room T-332 |
| | | <i>Riparian Corridor Policy</i> | |
| August 6 | 6:30 p.m. | Regular Meeting | Council Chambers |
| August 20 | 6:30 p.m. | Regular Meeting | Council Chambers |
| September 10 | 6:30 p.m. | Regular Meeting | Council Chambers |
| September 24 | 5:00 p.m. | Study Session | Council Chambers |
| | | <i>Joint Study Session with Parks Commission</i> | |
| September 24 | 6:30 p.m. | Regular Meeting | Council Chambers |
| September 25 | 8:30 a.m. | Annual Retreat | Room T-1654 |
| October 8 | 6:30 p.m. | Regular Meeting | Council Chambers |
| October 22 | 6:30 p.m. | Regular Meeting | Council Chambers |
| November 5 | 6:30 p.m. | Regular Meeting | Council Chambers |
| November 19 | 6:30 p.m. | Regular Meeting | Council Chambers |
| December 3 | 6:30 p.m. | Regular Meeting | Council Chambers |
| December 10 | 6:30 p.m. | Regular Meeting | Council Chambers |

CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior, which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners, or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.